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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,849	03/16/2004	Mike Luong	1633	1292

7590 03/21/2006

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EXAMINER

NGUYEN, TUAN N

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,849

Applicant(s)

LUONG, MIKE

Examiner

Tuan N. Nguyen

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “pair of spaced water jets mounted on a sidewall” in claims 6 and 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, it is unclear as to what structure "the latter" in line 3 is referring to. Furthermore, it is unclear as to what structure "which part" in line 4 is referring to.

With respect to claim 7, it is unclear as to what structure "the latter" in line 3 is referring to. Furthermore, it is unclear as to what structure "each of which extension" in line 5 is referring to.

With respect to claim 15, it is unclear as to what structure "which base" in line 1 and "the latter" in line 3 is referring to. Furthermore, it is unclear as to what structure "each of which extension" in line 5 is referring to.

Please check all of the claims to make sure that proper antecedent basis has been properly established for every structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. As best understood, claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,698,039 (hereinafter Park) in view of Waldron, Yeh,

Art Unit: 3751

Huynh et al. (hereinafter Huynh), Weddendorf et al. (hereinafter Weddendorf), and Kurosawa.

Park discloses a pedicure chair comprising a seat (20) attached to a chair base (10), the base has a basin defined by an upstanding sidewall, the basin having a lower zone and a raised zone, the raised zone could obviously comprise a pair of mirror image raised tread bearing footrest as, for example, shown by Huynh and Kurosawa (if not already), each footrest could obviously have a forward projecting extension, the footrests and the extensions being separated by a part of the lower zone as, for example, shown in Fig. 5 of Huynh. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Park device, footrests of any shape, such as triangular, with extension that is spaced from the sidewall of the basin since it involve mere desire shape and arrangement by the user. The Park chair further includes a raisable front bumper and a water faucet (31). The Park chair does include a pair of spaced water jets (33) mounted and a drain (32) on a sidewall of the basin. Although Park is silent as to the jets and drain being on the floor or lowered zone, attention is directed to the Yeh reference, which disclose analogous foot spa having a horizontally disposed water jets (43) and drain (29) in the floor or lowered zone. Therefore, it would have been obvious to one having ordinary skill in the art to employ horizontally disposed water on the Park lowered zone since it involve mere design choice. The square configuration of the Park basin could obvious modify to be round as for example shown by Waldron upon the user's desire. The seat could obviously rotate upon employing a seat-rotating device (90) as for example taught by

Art Unit: 3751

Weddendorf, which would have been obvious to one skill in the art at the time the invention was made.


Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Liang, Park, Tran, Long et al., and Hintz et al. disclose other footbath apparatus.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tuan Nguyen
Primary Examiner
Art Unit 3751
3/20/06

TN